

APPEAL NO. 021603
FILED AUGUST 8, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 28, 2002. The hearing officer resolved the issues in dispute by determining that the respondent's (claimant) compensable injury on _____, included displacement of the lumbar intervertebral disc, segmental dysfunction of the lumbar region, and lumbosacral sprain. The hearing officer further decided that the claimant had disability from _____ to May 4, 2001, and from July 7, 2001, to May 28, 2002, (the date of the CCH). The appellant (carrier) appealed the determinations of the hearing officer on sufficiency grounds. The claimant responded, urging the affirmance of the hearing officer.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's _____, compensable injury included displacement of the lumbar intervertebral disc, segmental dysfunction of the lumbar region, and lumbosacral sprain. The claimant testified that his symptoms were those reported to his treating doctor, whose medical reports show that the doctor diagnosed the claimant with the lumbar problems as specified above. The carrier argued that the claimant was inconsistent in reporting the cause of his symptoms and that there was an intervening incident causing the lumbar problems. The carrier also argued that the treating doctor's records alone, without verifying, objective diagnostic tests, were insufficient to support the hearing officer's determination.

As we affirm the hearing officer's compensable injury determination, we likewise affirm his disability determination. The treating doctor's records show that he took the claimant off work until May 21, 2002, and the claimant testified that he was unable to work up until the date of the CCH, May 28, 2002. Because the hearing officer found that the claimant was unable to obtain or retain employment at his preinjury wages as a result of his compensable injury, the hearing officer did not err in determining that the claimant had disability from _____ to May 4, 2001, and from July 7, 2001, to the date of the CCH. See, Section 401.011(16).

The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the disputed issues, compensability and disability, in the claimant's favor, and the hearing officer's determination is supported by the claimant's testimony and the medical records in evidence. While the carrier argued a different interpretation of the evidence, we conclude that the hearing officer's determinations are supported by the evidence, and that they are not so against the great weight and preponderance of the evidence as to

be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

The hearing officer's decision and order are affirmed.

The official name of the carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET
AUSTIN, TEXAS 78701.**

Gary L Kilgore
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Michael B. McShane
Appeals Judge